



FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35606]

State of Michigan Department of Transportation—Acquisition Exemption—Certain Assets of Norfolk Southern Railway Company

The State of Michigan Department of Transportation (MDOT), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from Norfolk Southern Railway Company (NSR) certain right-of-way and trackage extending from (1) approximately milepost 7.60 at Townline in Wayne County, Mich. to approximately milepost 119.60 at CP Baron in Calhoun County, Mich., a distance of approximately 112.0 miles, and (2) approximately milepost 121.39 in Gord, Calhoun County, Mich., to approximately milepost 145.60 in Kalamazoo, Kalamazoo County, Mich., a distance of approximately 24.21 miles (collectively, the line). MDOT states that, under the proposed transaction, NSR would not transfer to MDOT certain real property and personal property otherwise part of the line, including Wayne Yard and Willow Run Yard. According to MDOT, NSR will retain an exclusive, irrevocable, perpetual, assignable, divisible, licensable and transferable freight operations easement to provide freight rail service on the line.¹

¹ A motion to dismiss this notice of exemption on the grounds that the transaction does not require authorization from the Board was concurrently filed with this notice of exemption. MDOT requests that the Board give expedited consideration to the motion and issue a decision effective by May 31, 2012. The motion to dismiss will be addressed in a subsequent Board decision.

MDOT states that the proposed transaction has been agreed upon pursuant to an Agreement for Purchase and Sale by and between MDOT and NSR. According to MDOT, it would operate intercity passenger rail service, through a designated third-party operator, and MDOT would not acquire any freight operating rights. MDOT also states that the agreement does not contain any provisions that would limit interchange with a third party.

MDOT certifies that, because it will not conduct any rail operations on the line being acquired, its projected annual revenues as a result of this transaction will not exceed those that would qualify it as a Class III rail carrier and will not exceed \$5 million.

MDOT states that it expects to consummate the proposed transaction on May 31, 2012, or later. The earliest this transaction may be consummated is April 29, 2012, the effective date of the exemption (30 days after the exemption is filed).

If the notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. § 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than April 20, 2012 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35606, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Kevin M. Sheys, Nossaman LLP, 1666 K Street, N.W., Suite 500, Washington, DC 20006.

Board decisions and notices are available on our website at
"WWW.STB.DOT.GOV."

Decided: April 10, 2012.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Jeffrey Herzig

Clearance Clerk

[FR Doc. 2012-8890 Filed 04/12/2012 at 8:45 am; Publication Date: 04/13/2012]